

REMARKS

Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

As a preliminary matter, Applicants thank Examiner Wilson for his courtesies extended to Applicants' representative during the April 11, 2007 telephonic interview. The substance of that interview is embodied in the following remarks.

Applicants note the Office Action's acknowledgement of Applicants' claim for foreign priority under 35 U.S.C. § 119(a)-(d), receipt of all certified copies of the priority documents and consideration of the Information Disclosure Statement filed on April 14, 2005.

The drawings stand objected to for minor informalities. Claims 1, 2, 26, 27 and 31 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,687,678 to Suchomel et al. (hereinafter "Suchomel") in view of U.S. Patent No. 6,152,086 to Brouwer et al. (hereinafter "Brouwer"). Claims 20-25, 28-30 and 32-37 stand objected to as being dependent upon a rejected base claim but would be allowable if rewritten in independent form.

By this amendment, claim 1 has been canceled without prejudice to or disclaimer of the subject matter contained therein. Claim 20 has been rewritten in independent form as discussed in greater detail below. Claims 2, 26, 28, 31 and 32 have been amended to update their dependence and claims 21-25, 27, 29, 30 and 33-37 remain unchanged in the application.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier. After amending the claims as set forth above, claims 2 and 20-37 are now pending in this application for consideration.

THE DRAWINGS ARE IN PROPER FORM

The drawings stand objected to for various informalities. In particular, the Office Action alleges that the drawings fail to show the flattened oval cross-section of the tubes. Applicants respectfully disagree. Figs. 1, 3, 5, 7, 9, 10, 12 and 13 clearly illustrate the flattened oval shape of the tubular bundle 2. The figures illustrate a helical winding of the X-X' axis of the group of tubes arranged end to end and connected in series having a flattened cross section with their large sides perpendicular to the X-X' axis (*see*, specification, page 9, lines 15-22). As discussed during the telephonic interview, it is the oval shape of the tube which the fluid circulates. Attached to this response is a drawing sheet with Figs. 1-4 from the EP 0 678 186 reference (Appendix A), discussed at page 1, line 13 through page 2, line 21 of the present specification, again illustrating the flattened oval cross-section of the tubes.

For the reasons advanced above, Applicants respectfully submit that the drawings are in proper form and respectfully request withdrawal of this objection.

Regarding “the device for circulating a fluid,” this feature has been removed from the claims. Applicants therefore respectfully request withdrawal of this objection to the drawings.

THE CLAIMS DISTINGUISH OVER THE CITED REFERENCES

Claims 1, 2, 26, 27 and 31 stand rejected as being unpatentable over the combination of Suchomel and Brouwer. Applicants gratefully acknowledge the Office Action’s indication that claims 20-25, 28-30 and 32-37 contain allowable subject matter. Although Applicants respectfully submit that the invention which is the subject matter of the rejected claims may be patentable over the cited references, Applicants at this time intend to pursue patent protection for the allowable subject matter recited in the claims identified above.

As such, allowable claim 20 has been rewritten in independent form to include all of the features of canceled base claim 1. The remainder of the claims remain unchanged or have been amended to depend directly or indirectly from independent claim 20. The cancellation of claim 1 is not meant to concede to the appropriateness of the rejection of this claim, but

merely to expedite prosecution of the patent application. Therefore, Applicants submit that independent claim 20 and claims dependent directly or indirectly therefrom, namely claims 2 and 21-37 are allowable as well. Further remarks regarding the asserted relationship between any of the claims and the cited references are not necessary in view of their allowability. Applicants' silence as to the Office Action's comments is not indicative of being in acquiescence to the stated grounds of rejection.

Applicants believe that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicants hereby petition for such extension under 37 C.F.R. §1.136 and authorize payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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Appendix A

FIG.1

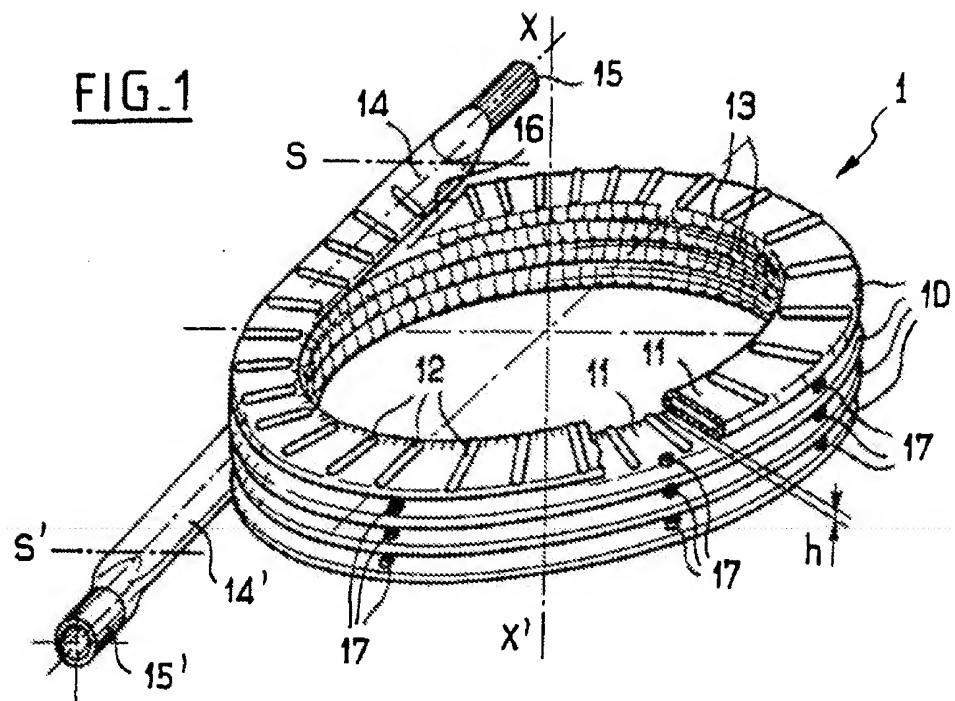


FIG. 2

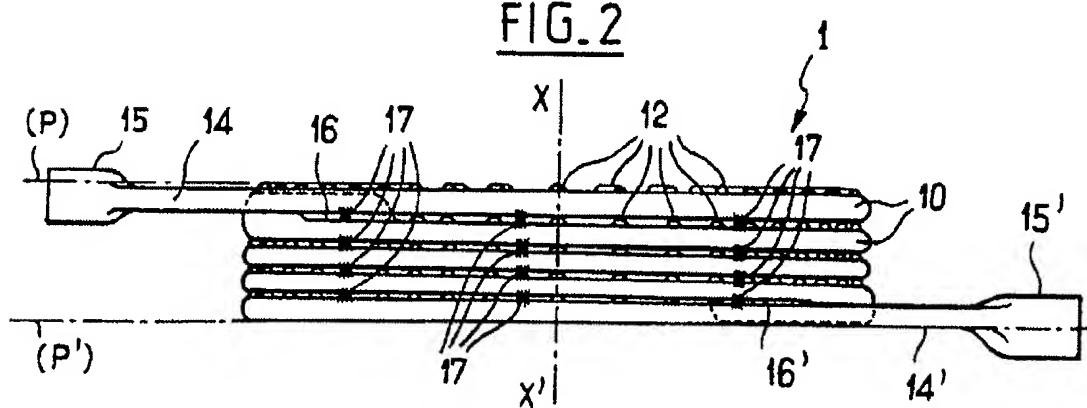


FIG. 3

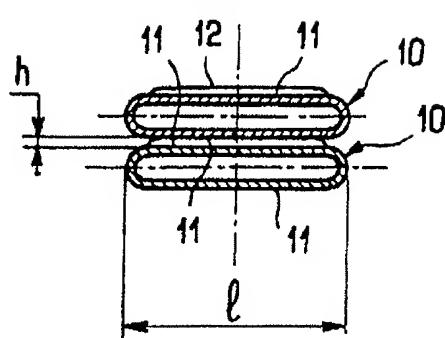


FIG. 4

